

Hon. Richard A. Jones

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

PHILIP SMITH,

Plaintiff,

v.

COUPANG INC. and DOES 1-10, inclusive,

Defendants.

Case No. 23-1887

**DECLARATION OF JENNIFER
SCHWARTZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR LEAVE TO
FILE CORRECTED AMENDED
COMPLAINT**

I, Jennifer Schwartz, hereby state as follows:

1. I am a Partner with the law firm Outten & Golden LLP, and counsel for Plaintiff Philip Smith in the above-captioned action. I submit this declaration in support of Plaintiff's Reply in Support of Plaintiff's Motion for Leave to File Corrected Amended Complaint. Dkt. 47.

2. As part of Plaintiff's legal team, I reviewed and approved Plaintiff's Amended Complaint prior to filing and did not recognize the errors in the Amended Complaint. We had added references to "Coupang Global LLC" to bolster the argument that Defendant Coupang Inc.'s affiliated entities included those located in the United States, along with multiple other

1 facts, defeat Defendant's argument (at least at the pleading stage) that the complaint should be
2 dismissed because of lack of sufficient domestic nexus.

3 3. On March 8, 2024, the parties met and conferred regarding Defendant's
4 anticipated motion to dismiss plaintiff's Amended Complaint. Ms. Lenning, Mr. Subit, and Ms.
5 Onyendu attended the meet and confer on behalf of Plaintiff. On March 11, 2024, Defendant
6 filed its Motion to Dismiss Plaintiff's Amended Complaint. Dkt. 30.

7 4. Defendant's Motion to Dismiss alerted me for the first time to the fact that the
8 name of Plaintiff's employer, "Coupang LLC" had been inadvertently changed to "Coupang
9 Global LLC" in several places in error in Plaintiff's Amended Complaint. Certain other
10 references to "Coupang Global LLC" were properly identified.

11 5. Following the recovery of the member of Plaintiff's legal team from COVID
12 (who was taking the lead in preparing Plaintiff's opposition to the MTD),¹ Plaintiff's counsel
13 worked diligently with counsel for Defendant in an attempt to correct the errors in the Amended
14 Complaint. On March 22, 2024, I emailed Defendant's counsel seeking consent for a one-week
15 extension for Plaintiff's Opposition to Defendant's Motion to Dismiss the Amended Complaint,
16 to which defense counsel agreed. *See* Ex. A. The parties also reached agreement that the
17 extension would apply to Plaintiff's Opposition to Defendant's Request for Judicial Notice and
18 Notice for Incorporation By Reference, and Defendant's Reply. *Id.* That same day, I emailed
19 Defendant's counsel requesting a stipulation or Defendant's consent to the filing of a Corrected
20 Amended Complaint without seeking leave of the Court so that the inadvertent naming errors
21 could be corrected. *Id.* I stated that our intention with filing the Corrected Amended Complaint

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24 ¹ Plaintiff's counsel Ms. Lenning started exhibiting symptoms of COVID on March 12, 2024, the day
25 after Defendant filed its Motion to Dismiss the Amended Complaint (the "Motion") and a related Request
for Judicial Notice and Notice of Incorporation by Reference (the "Request") on March 11, 2024. Dkts.
30; 32.

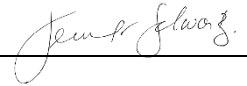
1 was to avoid any confusion with the Court and to correct the record.² Ex. A. Counsel for
2 Defendant refused to consent to the corrections. Defendant stated that it did not want to incur an
3 additional round of pleadings and motion to dismiss briefing.

4 6. Plaintiff's legal team communicated to Defendant's counsel that it did not believe
5 additional briefing would be necessary.

6 7. At no point during counsel's email exchanges regarding these issues and the
7 specific corrections Plaintiff sought to make on March 22, March 25, March 26, and April 1, and
8 April 2, 2024 did Defendant's counsel say or indicate that they considered these errors to be
9 Plaintiff's intentional bad faith attempt at prejudicing Defendant and deceiving the Court.

10 I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the forgoing is true
11 and correct.

12 Executed this 19th day of April, 2024, in New York, New York.

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15 Jennifer Schwartz
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24 ² In order to avoid confusion, Plaintiff's arguments in its Opposition to Defendant's Motion to
25 Dismiss Amended Complaint currently pending before the Court are solely based on allegations
in the Corrected Amended Complaint. *See also* Dkt. 39, fn. 11.